

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DREWES FARMS PARTNERSHIP,¹	:	Civil Action No. 3:19-cv-00434
	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	Judge Jack Zouhary
	:	
THE CITY OF TOLEDO, OHIO,	:	Magistrate Judge James R. Knepp, II
	:	
<i>Defendant.</i>	:	

**PLAINTIFF DREWES FARMS PARTNERSHIP’S
MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. P. 65, Plaintiff Drewes Farms Partnership (“Plaintiff” or “Drewes Farms”) hereby moves this Court for a Preliminary Injunction enjoining Defendant, The City of Toledo, Ohio (“Defendant” or “City” or “Toledo”), and its agents and/or employees from taking any action to enforce the Lake Erie Bill of Rights in its City Charter (the “Lake Erie Bill of Rights” or “LEBOR”). LEBOR is unconstitutional on its face and violates the First, Fifth, and Fourteenth Amendments. LEBOR also exceeds the City’s legal authority by unlawfully intruding on areas entrusted to the state and federal government and by contradicting state and federal laws. This unconstitutional and unlawful amendment exposes Plaintiff’s fifth-generation family farm to strict criminal and massive financial liability for engaging in legal farming practices necessary to cultivate crops. Drewes Farms suffers irreparable harm that will continue unless the Court enjoins enforcement of the unlawful charter amendment.

¹ The correct name for Plaintiff is Drewes Farms Partnership. The omission of the “s” at the end of “Farm” in the caption in the Complaint (ECF No. 1) was the result of a typographical error.

Courts in Ohio and across the country have regularly found “community rights” laws similar to LEBOR to be unconstitutional and unlawful. *See, e.g., State ex rel. Bolzenius v. Preisse*, 2018-Ohio-3708 (Ohio) (finding similar Columbus provision unlawful); *State ex rel. Flak v. Betras*, 152 Ohio St.3d 244, 2017-Ohio-8109 (finding similar Youngstown provision unlawful); *Spokane Ent. Ctr. v. Spokane Moves to Amend the Const.*, 369 P.3d 140 (Wash. 2016) (finding that similar Spokane, Washington provision unlawfully regulated issues outside of city authority); *SWEPI, LP v. Mora Cty.*, 81 F.Supp.3d 1075 (D. N.M. 2015) (finding similar Mora County, N.M. provision unlawful); *Pa. Gen. Energy Co., LLC v. Grant Twp.*, 139 F. Supp. 3d 706, 714 (W.D. Pa. 2015) (finding similar Grant Township, Pa. provision unlawful); *Penn Ridge Coal, LLC v. Blaine Twp.*, W.D.Pa. Civil Action No. 08-1452, 2009 U.S. Dist. LEXIS 84428, at *32 (Sep. 16, 2009) (finding similar Blaine Township, Pa. provision unlawful).

Drewes Farms respectfully requests an expedited hearing and an expedited ruling on the merits. Support for this motion is set forth in the attached filed in this action.

Respectfully submitted,

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